

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ATTORNEYS FOR DEFENDANT
HARD ROCK HOTEL, INC.

Pursuant to Federal Rule of Civil Procedure 15(a), defendant Hard Rock Hotel, Inc. ("Hard Rock" or "Defendant") and Plaintiffs Marcia Gagliardi and Ryan Robles ("Plaintiffs"), by and through their respective counsel of record and subject to the approval of the Court, hereby enter into the following Stipulation to Allow Plaintiffs to File an Amended Complaint and to Take Defendant's Motion for Judgment on the Pleadings Off Calendar Without Prejudice:

WHEREAS, a hearing is currently set for September 12, 2005 at 2:00 p.m., upon Hard Rock's Motion for Judgment on the Pleadings Pursuant to Fed. R. Civ. P. 12(c) and 12(h)(2) (the "Motion");

WHEREAS, Plaintiffs filed their Opposition to the Motion and Counter-Motion for Leave to Amend Complaint Pursuant to Fed. R. Civ. P. 15(a), attaching a draft of an amended complaint;

WHEREAS Defendant has agreed to allow Plaintiffs to file their amended complaint;

WHEREAS the Parties have agreed that the Motion will be taken off calendar without prejudice to Hard Rock bringing a motion challenging the substance of the amended complaint or striking Plaintiffs' jury demand at a later date;

It is therefore STIPULATED and AGREED that:

1. Plaintiffs may file and serve an amended complaint;
2. Defendant shall have twenty days from service of the amended complaint to move, answer or otherwise plead in response to the amended complaint, and

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3. Hard Rock's Motion for Judgment on the Pleadings Pursuant to Fed. R. Civ. P. 12(c) and 12(h)(2) shall be taken off calendar without prejudice to filing a motion challenging the amended complaint at a later date.

Dated: August 24, 2005


HOWREY LLP
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By  for Bobby A. Ghajar
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Attorneys for Defendant
HARD ROCK HOTEL, INC.

Dated: August 25, 2005


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MANUELLA W. HANCOCK

By 
Manuella W. Hancock

Attorneys for Plaintiffs
MARCIA GAGLIARDI and RYAN ROBLES

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 8/31/05


The Honorable Marilyn Hall Patel
United States District Court Judge

DM-US-824663 v1

STIPULATION AND [PROPOSED] ORDER TO FILE AMENDED COMPLAINT AND TAKE MOTION OFF CALENDAR
CASE NO. CV 05-01950-MHP